

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

UNITED STATES OF AMERICA)
VS.) CRIMINAL ACTION
ROBERT SCOTT BROWN, JR.) NO. 3:22-CR-00267

MOTION TO SUPPRESS HEARING
OFFICIAL TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE KAYLA D. MCCLUSKY
UNITED STATES MAGISTRATE JUDGE
JUNE 7, 2023
MONROE, LOUISIANA

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1 (Court called to order with the defendant present at
2 10:01 a.m.)

3 THE COURT: We are here today in the case of
4 United States of America versus Robert Scott Brown, Jr.
5 That's case number 3:22-00267 and we are here today for a
6 motion to suppress hearing. Counsel, do you want to make
7 your appearances for the record?

8 MS. CASSIDY: Yes, Your Honor. Good morning.
9 Jessica Cassidy on behalf of the government. I would point
10 out that seated with me at counsel table is --

11 THE COURT: Yes.

12 MS. CASSIDY: -- Jeff Goodwin. He is our summer
13 intern.

14 THE COURT: Okay.

15 MS. CASSIDY: If the Court would not mind him
16 sitting in.

17 THE COURT: I do not mind at all. We are happy to
18 have you, Mr. Goodwin. And I hope if there is anything we
19 can help you with about learning about federal practice,
20 we're happy to do that.

21 MS. CASSIDY: And then also seated at counsel
22 table is the case agent, FBI Special Agent Jonathan Capers.

23 THE COURT: Thank you very much.

24 MR. SALOMON: Val Salomon, Your Honor. I'm here
25 on behalf of Mr. Brown who is also present.

1 THE COURT: All right. Ms. Cassidy?

2 MS. CASSIDY: Your Honor, our first witness will
3 be Professor Brian Levine. I have two other witnesses and
4 at this time I'd tell the Court I've advised him of the
5 rule of sequestration and they can sit in the witness room,
6 if it's agreeable.

7 THE COURT: That is --

8 MR. SALOMON: That's fine.

9 THE COURT: -- certainly how we normally do it, so
10 let's go ahead and proceed with the first witness.

11 MS. CASSIDY: All right.

12 MR. SALOMON: Your Honor, I have spoke to
13 Ms. Cassidy and --

14 THE COURT: Okay. Before we proceed any further,
15 the court reporter has asked that you guys make sure you're
16 talking into your microphone. She is having trouble hearing
17 you guys and maybe me, too. I'll try to do my best, too.

18 MR. SALOMON: I spoke to Ms. Cassidy and I think
19 we both agree that two-thirds of my motion deal with bare
20 bones and staleness, which simply is argument based upon the
21 four corners of the warrant, and then we'll decide whether
22 we -- whether there's going to be any witness testimony
23 regarding the third aspect of my argument.

24 THE COURT: All right. So you're only going to
25 provide testimony on that third aspect; is that what you're

1 saying?

2 MR. SALOMON: Yes. That one there may be some
3 testimony, maybe not.

4 THE COURT: Okay.

5 MR. SALOMON: Because I've gotten some further
6 information and it probably answers my questions, quite
7 candidly.

8 THE COURT: Okay. Well, if at any point we don't
9 need further testimony, then you let us know, Mr. Salomon.

10 MR. SALOMON: I'm sure you'll be heartbroken.

11 THE COURT: Yeah.

12 All right. In that case, Ms. Cassidy, if you want to
13 proceed with your first witness. Is there anything else we
14 need to address?

15 MR. SALOMON: Just argument right now if we're --

16 THE COURT: Oh, you want to make argument right
17 now? I'm sorry.

18 MR. SALOMON: Just regarding the three aspects.

19 THE COURT: Okay.

20 MR. SALOMON: One is bare bones argument of the --
21 with the state warrant that was involved here, which would
22 be within the four corners of the warrant, nothing beyond.

23 THE COURT: Right.

24 MR. SALOMON: And then a staleness argument was
25 also with the four corners of the warrant, so that -- it's

1 argument only.

2 THE COURT: Okay.

3 MS. CASSIDY: And, Judge, and I apologize, I agree
4 with Mr. Salomon that part of that is argument. I didn't
5 know if maybe it would be better to save those arguments for
6 at the end of the hearing, only because of the good faith
7 exception and how that's the first thing that courts look to
8 with regard to allegations of bare bones affidavits.

9 THE COURT: Right. That's what -- I thought we
10 were going to take testimony first and then y'all can make
11 any argument --

12 MR. SALOMON: Whichever.

13 THE COURT: -- you want to make.

14 MS. CASSIDY: Why don't we do that. If it's
15 agreeable, let's do that.

16 MR. SALOMON: Okay. That's fine.

17 THE COURT: Okay. Yeah. I misunderstood. I
18 thought that's what we were doing.

19 MS. CASSIDY: Okay. Mr. Levine.

20 THE COURT: We really do need you now.

21 THE WITNESS: Good morning, Your Honor.

22 (witness sworn.)

23 MS. CASSIDY: And, madam court reporter, if you
24 could go ahead and turn on the screen. I know we'll need it
25 for his testimony.

1 BRIAN LEVINE, PH.D.

2 having been first duly sworn to testify the truth, the whole
3 truth, and nothing but the truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. CASSIDY:

6 Q Good morning.

7 A Good morning.

8 Q would you state and spell your name for the record?

9 A My name is Brian Levine. B-R -- B-R-I-A-N. Levine,
10 L-E-V-I-N-E.

11 Q Are you currently employed?

12 A I am.

13 Q where are you employed?

14 A The University of Massachusetts in the College of
15 Information and Computer Sciences.

16 Q How long have you been employed by the University of
17 Massachusetts?

18 A Since 1999.

19 Q what's your title or your position?

20 A Professor.

21 Q Is that a tenured position?

22 A It is.

23 Q when did you receive tenure?

24 A 2005.

25 Q Do you have any particular subject matters that you

1 specialize in?

2 A Yes. Since I've been there, I've been specializing in
3 networks and security, privacy and forensics.

4 Q Do you teach any courses related to those subject
5 matters?

6 A I do.

7 Q What are some of the courses that you teach?

8 A Most recently, I've been teaching a course on digital
9 forensics. In the past I have taught courses on computer
10 networks, intro to security, introduction to programming, a
11 variety of graduate-level seminars on the latest research.
12 A lot of these are listed in the CV. All of them --

13 (Off the record.)

14 Graduate-level seminars on the latest research is what
15 I believe I said.

16 Q (BY MS. CASSIDY) And you alluded to this in your last
17 response, but at what academic levels are these courses?

18 A Both at the undergraduate and the graduate level.

19 MS. CASSIDY: Mr. Goodwin, can you pull up
20 Government Exhibit 1?

21 Q (BY MS. CASSIDY) And, Professor Levine, do you
22 recognize what this document is?

23 A I do. It's my CV.

24 MS. CASSIDY: Mr. Levine -- or I'm sorry.

25 Mr. Goodwin, if we could scroll down to the bottom of page

1 1.

2 Q (BY MS. CASSIDY) Professor Levine, if you would just
3 describe your educational background.

4 A Yes. My undergraduate degree is from what's now called
5 the University at Albany but was called the State
6 University of New York at Albany. I graduated in 1990 with
7 a degree combined in Applied Mathematics and Computer
8 Science. And from there, I went to graduate school at the
9 University of California, Santa Cruz, where I received a
10 master's degree and subsequently a Ph.D. in Computer
11 Engineering, and my research focused on the internet,
12 broadly speaking.

13 MS. CASSIDY: And, Mr. Goodwin, if you would just
14 toggle over through pages 3 through 8. And stop right
15 there. I apologize, Mr. Goodwin.

16 Q (BY MS. CASSIDY) Starting here -- and, Professor, you
17 know you are seeing it better than anyone, but over the
18 course of these next few pages, do these discuss your
19 peer-reviewed papers?

20 A It does.

21 Q Do many of these papers relate to computer forensics
22 and child exploitation?

23 A They do.

24 MS. CASSIDY: And, Mr. Goodwin, if we could go
25 back to page 2 of the CV. Thank you.

1 Q (BY MS. CASSIDY) Professor Levine, I have noted
2 something on the screen, "2020 ACM Fellow." Can you
3 explain what that is and what it relates to?

4 A Yes. So the ACM is a professional society. It stands
5 for the Association for Computing Machinery. It's a society
6 that I believe it started in the 1940's. It's a -- it's a
7 professional society for people who research and are
8 practicing computer scientists, and they have different, I
9 guess you might call it, status levels, so this is the
10 highest status level called a fellow. And as you can read
11 there, it's based upon a nomination and review process by a
12 distinguished selection committee and this status is
13 reserved by -- I guess "bylaws" would be the words of the
14 society -- bylaws for the -- for just one percent of the
15 total membership of the society. And when you're elected a
16 fellow, and I was, there is a specific sentence there --
17 citations, I think, is the better word for why you become a
18 fellow. And so, for me, these were contributions to my work
19 in forensics, security, and privacy and for thwarting crimes
20 against children.

21 Q Thank you.

22 MS. CASSIDY: And, Mr. Goodwin, lastly, will you
23 turn to page 8 of the CV? Right there. Thank you.

24 Q (BY MS. CASSIDY) Professor Levine, have you been
25 qualified to testify as an expert witness previously?

1 A Yes.

2 Q And are all of those expert testimony and where they
3 were located, is that reflected in your CV?

4 A Yes, it is.

5 Q Fair to say, without reading out the various courts,
6 that you've been qualified as an expert witness in numerous
7 federal district courts?

8 A Correct.

9 MS. CASSIDY: Your Honor, at this time the
10 government would move into evidence Government Exhibit 1.

11 THE COURT: Any objection?

12 MR. SALOMON: No objection, Your Honor.

13 THE COURT: Okay. That's received into evidence.

14 Q (BY MS. CASSIDY) And, lastly, Professor Levine, what
15 have been some of the areas in which you were qualified as
16 an expert witness?

17 A Peer-to-peer networking and network security, computer
18 science and forensics. I'm just reading off the list here.
19 Digital forensics.

20 MS. CASSIDY: Your Honor, at this time the
21 government would tender Professor Levine as an expert
22 witness in the field of networking and digital forensics.

23 THE COURT: Networking and digital forensics;
24 is --

25 MR. SALOMON: Yeah, I have no --

1 MS. CASSIDY: -- that what you said? Do you have
2 any objection?

3 MR. SALOMON: No objection.

4 THE COURT: No objection?

5 MR. SALOMON: No.

6 THE COURT: Okay. Then I do find him qualified in
7 the field -- so say it one more time for me.

8 MS. CASSIDY: I apologize, Your Honor.
9 Networking and digital forensics.

10 THE COURT: Networking and digital forensics.

11 THE WITNESS: Thank you, Your Honor.

12 Q (BY MS. CASSIDY) Professor Levine, my intention of your
13 testimony today is to provide the Court with an overview of
14 various topics. So, with that said, can you provide an
15 overview of what is peer-to-peer networking and how it
16 works?

17 A So peer-to-peer networking -- if you don't mind, let me
18 first define it by what it's not. More commonly, all of
19 us -- at this point, probably everyone here has a cell phone
20 or a computer they use regularly, and I think we're used to
21 using what's often called a client server. So a good
22 example of that would be, say, Netflix or Spotify, if you
23 use those services, and, again, at a very high level, in
24 those cases, we, as users, are clients, and we contact a
25 central location called a server, sometimes often called a

1 web server, or something out there in a warehouse, which is
2 commonly called the cloud, and we will contact Netflix and
3 stream a movie down, and another person who has subscribed
4 to Netflix will contact, as the client, the Netflix server
5 and stream a movie down, but what we won't do, typically in
6 this model, is contact other Netflix subscribers for any of
7 that movie. The same thing with Spotify and other streaming
8 services. So peer to peer is a different approach. There
9 is no central server that someone has set up as part of the
10 company or an organization. Instead, there are just other
11 peers is the word. And peers are people who have downloaded
12 software, say, and they run that software. And to get
13 content from this peer-to-peer network, as it's called,
14 they will contact the other peers using this software and
15 say I'm looking for this particular music or movie, can you
16 give me, say, a part of it, and I will ask other peers for
17 the rest of the movie.

18 Q And thank you for that explanation. Are you familiar
19 with a software program known as Freenet?

20 A I am.

21 Q Have you researched Freenet?

22 A Yes.

23 Q Have you even written published papers about Freenet?

24 A I have.

25 Q Is Freenet a peer-to-peer network program?

1 A It is.

2 Q What is the purpose of Freenet?

3 A Freenet has a few purposes. I think at the highest
4 level, the goal is to share content among peers -- in other
5 words, among people -- who have also downloaded and are
6 running Freenet. It has some other purposes. They would
7 like their content to remain available for a long time and
8 they would like some modicum of privacy in terms of who has
9 made that content available and who is currently downloading
10 that content.

11 Q And when we say "content," do we mean like files?
12 Images? Videos?

13 A All of those -- anything you can make into a computer
14 file, it could potentially be shared in Freenet. So, yes,
15 that includes videos, images, and so on.

16 Q How does one access Freenet?

17 A It's freely available. For example, you could just go
18 to Google or your favorite search engine and type "Freenet
19 Project," for example. You know, I would expect it would
20 appear among the first hits. You'll end up at their web
21 page. And from the web page, you'll notice a download link,
22 and then that software is free to download. There is no
23 registration, not even free registration. You can just
24 click the download link, and then it's available on your
25 computer at no charge.

1 Q Are you familiar with the term "open source software"?

2 A I am.

3 Q What does that mean?

4 A So it means -- so all software has been created from
5 some source code is what we call it. It's what's been typed
6 into the computer by a programmer. And then there is a
7 process by which the programmer compiles that into a single
8 executable. And most often when we purchase software, we
9 just get that little executable that we can double click.
10 But with open source software, you can actually download and
11 inspect the original source code, the programmer's work,
12 that went into it.

13 Q And so is it fair to say that you can modify that
14 source code?

15 A Absolutely.

16 Q Is Freenet an open source software?

17 A It is.

18 Q What happens when a person downloads Freenet?

19 A So once you download it and you begin to execute the
20 installation program, it will run through what's commonly
21 called a wizard, a configuration wizard. You may not have
22 heard that term, but it's when you install software and you
23 keep hitting next, next, next. And so the configuration
24 wizard will run, you'll select various options, and when
25 you're done with it, if everything worked out okay, you'll

1 be able to finally just run the program and, ideally, not
2 run that installation step ever again.

3 Q Are you familiar with the terms "open net mode" and
4 "dark net mode"?

5 A Yes. So, in particular, for Freenet, during that
6 configuration stage, during the configuration wizard, while
7 you're installing it, it will ask you to make several
8 decisions. One of the decisions is whether you would like
9 to run in what's called open net mode or dark net mode.

10 Q And can you explain the different modes to the Court?

11 A So with dark net mode -- I'll start there -- the idea
12 is that you are aware of someone else who is also running
13 Freenet. You could be friends with them at work. You might
14 have met them online in a forum and never actually met them
15 in person. But with dark net mode, you tell the software --
16 I'll just call them your "friend" -- this is my friend and I
17 would like my computer to connect to their running instance
18 of Freenet. And if dark net -- the intention of dark net
19 mode is that you are only connected to these friends.

20 Now, with open net mode, you are connecting to
21 strangers and I use the word "stranger" because on the
22 installation screen, it says in open net mode, you will
23 connect to, quote, "strangers." So this is probably more
24 common because most people don't know anyone running
25 Freenet. It's not the world's most popular software, like,

1 say, Spotify or Netflix, and the software will do this work
2 behind the scenes to find these other strangers from your
3 Freenet and they become your direct peers or neighbors,
4 sometimes they are called.

5 Q And we'll get into the specifics in a minute of how
6 open net versus dark net works with regard to file sharing,
7 but I did want to ask you, when you download Freenet, are
8 you allocating a portion of your hardware space?

9 A Yes. That is one of the questions during the
10 configuration process, how much of your hard drive space
11 would you like to reserve for Freenet to use.

12 Q And so can you explain then -- and use me for an
13 example, I have downloaded Freenet onto my computer. I
14 reserved a portion of my hard drive. What does that mean
15 for purposes of Freenet?

16 A Well, so, remember, as I said, one of the differences
17 between client server, like Netflix and Spotify, in a
18 peer-to-peer system is that the content that you would like
19 to retrieve is held with other peers. So when you run
20 Freenet, you, yourself, run Freenet, and you reserve that
21 space, it will start to be filled up with content that has
22 been inserted by others using Freenet.

23 Q And is it -- let's say another user uploaded a file on
24 Freenet. Am I receiving that whole file in my allocated
25 space?

1 A No. And if you are familiar with other peer-to-peer
2 systems, this is one of the differences with Freenet.
3 But, if you're not, in short, as you said, when I insert
4 something into Freenet to make it available to others,
5 everyone else who is running Freenet will get a small
6 fraction of that entire file. So maybe what you're seeing
7 is -- I'll leave it at that.

8 Q So with regard to open net mode, these strangers are
9 getting randomly anybody's pieces of a file?

10 A Correct.

11 Q So what process -- and you alluded to it with the
12 pieces, but what process takes place when someone uploads a
13 file onto Freenet?

14 A So, at a very high level, ignoring a tremendous number
15 of details, I will be running the Freenet software. I will
16 use the software to -- I will say I would like to upload
17 something now, and it will say please locate, let's say, a
18 video on your hard drive that you would like to share with
19 the rest of the world who is running Freenet. And, again,
20 at a high level, you can think of it as the software will
21 smash it into pieces, sometimes they're called blocks, and
22 then these blocks will be scattered around the world to
23 everyone who is running Freenet. Again, not all blocks to
24 every person. Some blocks with one person running Freenet,
25 and some blocks with another person running Freenet. And

1 that -- yeah, I'll leave it at that.

2 Q And then once the file is uploaded and broken, is it
3 encrypted?

4 A Yes. well, to be clear, it's encrypted before it's
5 uploaded to others. And so that way -- you know, in your
6 example, you were running Freenet. You donated the space.
7 The software will store, as that content, little blocks of
8 files that have been inserted by others and you'll receive
9 those blocks in an encrypted state.

10 Q And then is there some type of key or something
11 associated with the file so that it can be retrieved?

12 A Yes. So backing up, I said if I would like to share a
13 video on Freenet, I will smash the file into pieces.
14 Encrypted versions of those blocks of pieces will be
15 uploaded to others. And when the software is done with
16 that, and if it's successful, it will say here is what's
17 called a key. The full term is a manifest key. It looks
18 very similar to a URL. If I were to point you towards an
19 article in the New York Times, I would give you a full URL.
20 I think we have seen sometimes URLs can get very long and
21 unwieldy. The Freenet -- and I'll just use the word "URL"
22 right now -- the Freenet URLs are much longer, full of
23 random characters, but, at a high level, what they contain
24 is where to start to get the list of blocks that you would
25 like to retrieve to recreate this video that someone else

1 has uploaded, and the other part of it is the password, the
2 decryption password. So as a user of Freenet, you are
3 storing blocks that are encrypted, but as a downloader of
4 Freenet you have the key to decrypt them and, as I said, you
5 have -- you know where to go to get the list of blocks that
6 you need, the manifest of blocks that you need.

7 THE COURT: Let me ask this question -- and you
8 might be getting to this, Ms. Cassidy, so I'm not trying to
9 jump in where you are --

10 MS. CASSIDY: No. Go ahead, Your Honor.

11 THE COURT: -- but I'm trying to make sure I
12 understand, though, because all those details I wouldn't
13 understand, and I appreciate you leaving some of those
14 details out, but --

15 So when it breaks -- so when Freenet breaks it into
16 blocks or the user breaks it into blocks, the person who has
17 the key and who wants to download, they can eventually get
18 the whole video?

19 THE WITNESS: Correct.

20 THE COURT: One block at a time or something?

21 THE WITNESS: Correct, Your Honor.

22 THE COURT: Okay.

23 MS. CASSIDY: And that was my next area.

24 THE COURT: Okay. I was afraid I was jumping you.
25 I'm sorry.

1 MS. CASSIDY: No, I appreciate it, Your Honor.

2 Q (BY MS. CASSIDY) Professor Levine, provide the Court
3 with a 100-point view of how a file is retrieved and what
4 that entails.

5 A May be 100,000-foot view, though.

6 Q Okay. That's fine.

7 A For downloading the file and what it entails is what
8 you said?

9 Q Yes.

10 A So I said a little bit of this. So I am running the
11 Freenet software. I have been given, I'll call it, this
12 URL for what I would like to download. I give this to the
13 software. The software retrieves a manifest list of what's
14 in there. You can think about -- the word "manifest" is
15 very appropriate. It's a word we use for the contents of a
16 ship. I'd like to think of this as a little bit similar to
17 IKEA. If I go to IKEA, there is just thousands of parts to
18 it. A desk I need to reconstruct, it will come with a list
19 of parts that I should have if I am going to construct the
20 desk appropriately. So similarly here, the software will
21 download these list of blocks. If you download enough of
22 them, then you can decrypt them and reconstruct the original
23 video and then it's yours to view or do what you want with
24 it.

25 Q And with regard to when you input this manifest, is

1 Freenet then going out and searching peers?

2 A Okay. So that's another level of detail. So, as I
3 said before, when you join the net -- when you install the
4 software and you run it, we talked about connecting to
5 strangers, and there is a process where you can think of it
6 as arbitrarily finding other people on the internet running
7 the Freenet software. And what I will say is I have a
8 direct connection to them. And what I mean by that is
9 imagine you're in a room of a thousand people, you can't
10 have everyone talking at once. And if you need all thousand
11 people to communicate with one another, what they'll do is
12 just talk to the, let's say, 10 people around you in the
13 room and ask them to relay messages to other people in the
14 room. Otherwise it's too hard to keep track of that many
15 people at once.

16 So, similarly, in Freenet, a user who is downloading a
17 file has this list of blocks they would like to request from
18 others and they're not going to request it from all thousand
19 peers or many thousand peers running Freenet, they're going
20 to request it of just the 10 neighbors or strangers that
21 they have been connected to. So their software will ask the
22 software of their neighbor do you have this block, and that
23 is a request that is intended for that neighbor, and if you
24 have it, you can respond and give it to me.

25 And, further, the way Freenet works is they say when

1 your computer makes this request to this other user, the
2 request says, if you have it, please respond, but if not,
3 ask your neighbors. And so, hop by hop, you might say, the
4 request will go from one neighbor to one of their neighbors.
5 And either it will succeed and make its way back to the
6 original requester from these relaying neighbors, or it will
7 fail, in which case, a little while later you might say that
8 didn't work for me and I may ask another neighbor do you
9 have this request. And, eventually, if enough requests
10 succeed, then I can reconstruct the file.

11 Q And you testified earlier that an image or a file is
12 encrypted when it's uploaded?

13 A Uh-huh.

14 Q And then it's broken apart, correct?

15 A Correct.

16 Q And it's placed randomly on people's hard drives?

17 A Correct.

18 Q The person who is the original requester, is it fair to
19 say they know the file that they're looking for?

20 A Correct.

21 Q Whereas someone who is merely relaying a request, would
22 they know necessarily what the file is that this original
23 requester is looking for?

24 A Not necessarily, especially since the requests are not
25 for a human-readable string. It doesn't say this particular

1 video named "Alice and Bob at the Park." Instead, it's a
2 numerical representation of that content, what's often
3 called a cryptograph or what is called a cryptographic hash.
4 It's a digital fingerprint of what's in there. I don't know
5 if we need to get into how that works, but it's not a
6 human-readable string is my point.

7 (Off the record.)

8 THE WITNESS: String. I'm sorry. That's a
9 computer science word for text.

10 Q (BY MS. CASSIDY) And, Professor Levine, thank you for
11 going through that. I know it was daunting. But in your
12 studies and research of Freenet, have you found the software
13 program to be used for any nefarious reasons?

14 A I have.

15 Q What are some of those reasons?

16 A So, in our peer-reviewed paper, we documented that when
17 we took a look at the network and what was being
18 requested -- because when a request comes in, if you have
19 a -- let me just say this simply. So in our peer-reviewed
20 paper, we looked at the type of files that were being
21 requested by peers on Freenet, and at least 30 percent of
22 the time those requests were for files related to child
23 sexual exploitation, and we repeated that experiment four
24 times over four years and that was true each time.

25 Q And have you assisted law enforcement in any capacity

1 with regard to Freenet?

2 A I have.

3 Q And are you actually performing contract work with the
4 FBI?

5 A I do.

6 Q In what ways have you assisted law enforcement?

7 A So, in general, we have provided them tools for
8 network-based investigations of typically child sexual abuse
9 and for crimes related to child sexual abuse. Specifically
10 for Freenet, we provided them software so that they could
11 perform forensically-sound investigations of, as I said,
12 crimes against children on Freenet.

13 Q Thank you. I want to talk a little bit about that
14 software program. You previously testified that Freenet is
15 an open source software, correct?

16 A I did. It is.

17 Q Can you explain the software program that you have
18 created?

19 A Yes. So, as you said, Freenet -- as I said, Freenet is
20 an open source software and so we were able to download the
21 source code for Freenet, and then we were able to make small
22 modifications to it so that the same software could be used
23 by law enforcement in an undercover capacity and, in
24 particular, modifications be made, allow them to record
25 information while they used it in this undercover capacity

1 so that they could make conclusions related to an
2 investigation.

3 Q You said that the modification was that it records
4 information. What type of information is being recorded?

5 A So we record information that is already available to
6 users. Freenet can also record this information for you,
7 but then it also records a lot of other information that
8 wouldn't be useful in an investigation, like extraneous
9 information. I'm sorry, Your Honor.

10 THE COURT: Go on.

11 THE WITNESS: Okay. So specifically what I'll
12 call the law enforcement version of Freenet that we wrote
13 records information related to how many requests came from a
14 neighboring peer of law enforcement, at what time that
15 request was made, what the actual request was for, like what
16 specific block was requested, and a few other details that
17 allow them to conduct an investigation.

18 Q (BY MS. CASSIDY) And I think you said this, but this
19 information is available to all Freenet users?

20 A Correct.

21 Q The law enforcement version doesn't create some
22 proactive mechanism to it that allows law enforcement to go
23 into somebody's hard drive?

24 A That's correct. The law enforcement version doesn't
25 act any differently than anyone else running Freenet. It

1 doesn't -- it doesn't hack into the neighbor's computer.

2 It doesn't send any messages that aren't already part of the
3 normal operation of Freenet.

4 Q Is it fair to say that the law enforcement version is
5 like a passive receiver of requests like other peers?

6 A Correct.

7 Q Have you also assisted law enforcement by developing an
8 algorithm or technique with regard to Freenet?

9 A I have.

10 Q What is the goal or purpose of the algorithm?

11 A So, as I mentioned earlier, one of the goals of
12 Freenet was to provide some level of privacy to the users
13 who are downloading or uploading content into it. And so
14 the purpose of the algorithm is to allow law enforcement to
15 determine when they receive a request whether this request
16 is -- whether the request originated with their neighbor or
17 whether that neighbor is merely relaying this request for
18 someone else. Because, recall, I said when you download
19 something in Freenet, you make a request of the neighbor and
20 you say to the neighbor, if you don't have what I'm looking
21 for, please get it from one of your neighbors. So, on the
22 flip side of that, if you are receiving a request, Freenet
23 makes it difficult for any single request to determine if
24 it's originating with the neighbor who sent it or whether
25 there earlier.

1 Q And have you reviewed Freenet's website?

2 A I have.

3 Q Does Freenet even contemplate that someone could figure
4 out who was their requester of a file versus who was a
5 relayer?

6 A They do.

7 MS. CASSIDY: Mr. Goodwin, can you pull up
8 Government Exhibit 2? And, Mr. Goodwin, if you want to
9 scroll down so that the "Correlation attacks" section is
10 visible. Thank you.

11 Q (BY MS. CASSIDY) Professor Levine, do you recognize
12 this snapshot?

13 A I do. It's a portion of their help page on their
14 website.

15 Q "Their" being Freenet?

16 A "Their" being Freenet Project, correct.

17 MS. CASSIDY: Your Honor, at this time the
18 government would move into evidence Government Exhibit 2.

19 THE COURT: Any objection?

20 MR. SALOMON: No objection, Your Honor.

21 THE COURT: That's received into evidence.

22 Q (BY MS. CASSIDY) Professor Levine, if you would just
23 read the first sentence after "Correlation attacks."

24 A It says, "If you are connected to a node, and can
25 recognize the keys being requested (probably because it was

1 posted publicly), you can show statistically that the node
2 in question probably requested it, based on the proportion
3 of the keys requested from that node, the locations of
4 nearby nodes, the HTL," or Hops to Live, "on the requests
5 and so on."

6 Q And there is actually something in here that I want to
7 ask you about before we get further into this, but this
8 states that "probably because it was posted publicly." Is
9 the manifest key sometimes posted somewhere for others to
10 access it?

11 A Yes, it is.

12 Q So, for example, if I posted -- or if I uploaded a file
13 and received a manifest key, where could I post it so that
14 that manifest is made available to others?

15 A Well, so, as you said, first of all, you can decide not
16 to, but, of course, you're inserting it so that someone else
17 can download it. So you have a lot of choices. You can
18 send it by text to a friend of yours. You can email it to
19 someone. You can publish it on any website that we all go
20 to on the regular internet, or there are forums on Freenet
21 itself that other Freenet users can see and only Freenet
22 users and you can post it on those forums.

23 Q And turning back now to what you just read on the
24 Freenet page, essentially what is Freenet warning its users
25 of?

1 A It's warning that the privacy that they aim to protect
2 is not perfect and that with the information that they state
3 it could be de-anonymized, I would say.

4 Q And not to oversimplify your work, but is that
5 essentially what your algorithm or technique does?

6 A Correct.

7 Q You testified previously that you published papers
8 related to Freenet. Did any of those papers relate to your
9 algorithm?

10 A They did.

11 Q And was that paper peer-reviewed?

12 A There were two and both were peer-reviewed.

13 MS. CASSIDY: Mr. Goodwin, if you would just pull
14 up Government Exhibit 3.

15 Q (BY MS. CASSIDY) Professor Levine, do you recognize
16 this document?

17 A I do.

18 Q What is it?

19 A This is the second of the two peer-reviewed papers that
20 was published in 2020.

21 MS. CASSIDY: Your Honor, at this time the
22 government would move into evidence Government Exhibit 3.

23 MR. SALOMON: No objection, Your Honor.

24 THE COURT: Exhibit 3 is received into evidence.

25 MS. CASSIDY: And, Your Honor, based upon the

1 motion to suppress and in speaking with defense counsel, it
2 doesn't appear the defendant is challenging the veracity of
3 the algorithm. I just wanted to make it available to the
4 Court.

5 THE COURT: Okay.

6 MS. CASSIDY: So I don't intend to ask any
7 questions about the specifics at this time.

8 THE COURT: All right.

9 Q (BY MS. CASSIDY) So, Professor Levine, in short, does
10 the algorithm take information that is known to Freenet
11 users to determine who is the original requester versus who
12 is merely relaying a request for a file?

13 A Correct.

14 Q And has this algorithm been shared with law enforcement
15 to aid in your investigation?

16 A It has.

17 Q And, to be clear, you did not work specifically on this
18 case that we're here today?

19 A I did not.

20 MS. CASSIDY: Thank you, Your Honor. I'll tender.

21 THE COURT: Any questions, Mr. Salomon?

22 MR. SALOMON: Just a handful.

23 CROSS-EXAMINATION

24 BY MR. SALOMON:

25 Q Professor, if I may back up. I assume you're aware of

1 the cases where, let's say, Google or Meta or someone found
2 some CSAM materials and then reported it to law enforcement?

3 A I am aware that that happens.

4 Q Okay. Now, with the Freenet, that is not what
5 occurred. There is no, like, Google or someone else out
6 there that's monitoring and then reporting to law
7 enforcement?

8 A Correct.

9 Q In this instance, from the paperwork that I've seen and
10 been supplied, apparently you -- and, as it warrants, you
11 are publicly publishing what you're seeking --

12 A Correct.

13 Q -- right?

14 A As downloaded.

15 Q That can be downloaded. And that is -- is that your
16 understanding of what occurred here, by way of this law
17 enforcement, I guess, algorithm that was supplied to them?
18 In other words, to let them modify it and then access the
19 public aspect of Freenet?

20 A Can you clarify what you are specifically talking
21 about?

22 Q well, I'm saying you supplied information to law
23 enforcement so that they could access Freenet in the public
24 aspects of it; is that correct?

25 A I supply to them software that allow them to conduct

1 investigations on --

2 Q Okay.

3 A -- the system that was already public. I think that's
4 what you're asking.

5 Q And that was my question. So it's accessing what's
6 already public?

7 A Correct.

8 Q This isn't some sort of dark aspect or some nefarious
9 entry into the -- into Freenet or anything along those
10 lines?

11 A No.

12 Q This is something that if I entered into Freenet, I
13 could pull up the same public information?

14 A Correct.

15 Q Thank you.

16 MR. SALOMON: That's all I have.

17 THE COURT: All right. Thank you.

18 Any further questions?

19 MS. CASSIDY: No. Your Honor.

20 Thank you, Professor.

21 THE COURT: Okay. Thank you, Professor. I
22 appreciate it. And I am interested, so I'm going to read
23 your article even if I don't read it for this motion.

24 THE WITNESS: All right. Thank you, Your Honor.

25 MS. CASSIDY: Your Honor, and I don't know if

1 necessarily Mr. Levine needs to be released from his
2 subpoena since he is the expert, but if he would be
3 permitted to stay in the courtroom.

4 THE COURT: Any objection?

5 MR. SALOMON: No objection.

6 THE COURT: Then it certainly is.

7 MS. CASSIDY: All right. Your Honor, Agent Capers
8 is going to go get our next witness which is Special Agent
9 William Scullin.

10 (witness sworn.)

11 SPECIAL AGENT WILLIAM SCULLIN,
12 having been first duly sworn to testify the truth, the whole
13 truth, and nothing but the truth, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. CASSIDY:

16 Q Good morning.

17 A Good morning.

18 Q Would you state and spell your name for the record?

19 A Yes. William Scullin. That's S-C-U-L-L-I-N.

20 Q How are you employed?

21 A I'm a special agent with the FBI.

22 Q How long have you been with the FBI?

23 A Five years.

24 Q Prior to the FBI, were you employed in any other law
25 enforcement capacity?

1 A Yes. I was a special agent with the Air Force Office
2 of Special Investigations for nine years.

3 Q And as it specifically relates to your current position
4 with the FBI, are you assigned to any particular unit?

5 A Yes. Currently, I am assigned to the Child
6 Exploitation Operation Unit in Maryland.

7 Q How long have you been with that unit?

8 A Approximately seven months.

9 Q What are some of your duties and responsibilities
10 there?

11 A Broadly, I investigate suspected or alleged violations
12 of U.S. law. The squad I'm currently assigned to focuses on
13 undercover operations and the exploitation of -- the sexual
14 exploitation of children in travel and tourism.

15 Q And I assume those investigations involve child sexual
16 abuse material?

17 A Yes, they do.

18 Q Is that also known by the acronym CSAM?

19 A Yes, ma'am.

20 Q Prior to joining the unit, what division or section of
21 the FBI were you assigned?

22 A I was assigned to the New Orleans division,
23 specifically the Shreveport satellite office.

24 Q What were some of your duties and responsibilities?

25 A Again, broadly, I investigated suspected or alleged

1 offenses of U.S. law, specifically focusing on violent
2 crimes against children.

3 Q In addition to your on-the-job experience, did you
4 receive training with regard to your investigations?

5 A I did, yes.

6 Q Did part of that training include Freenet?

7 A Yes.

8 Q I'd like to direct your attention to August of 2021.
9 Did you begin an investigation involving CSAM being
10 downloaded in the Monroe area?

11 A Yes, ma'am.

12 Q Were you the case agent at that time?

13 A I was.

14 Q How did that investigation first come to your
15 attention?

16 A I received a lead through a law enforcement database
17 that I was given access to after I completed specific
18 training requirements that essentially collects information
19 on suspected instances of online sexual child exploitation
20 offenses.

21 Q And why was that lead sent to you in particular?

22 A So at the time I was the only FBI agent that was
23 Freenet certified, which had to do with this investigation,
24 investigatively responsible for the northern half of
25 Louisiana.

1 Q The lead that you received, did it involve Freenet?

2 A It did, yes, ma'am.

3 Q And according to this lead, when were the suspected
4 CSAM images being downloaded?

5 A It was May and July of 2021.

6 Q Did the lead give you an IP address associated with
7 that?

8 A It did, yes, ma'am.

9 Q And the Court has already heard testimony from
10 Professor Levine, but if you can just tell the Court, what
11 is your understanding of Freenet based upon your training?

12 A Certainly. So, in its simplest form, Freenet is an
13 internet-based, peer-to-peer network or platform. It is
14 publicly available and free to download. So anyone with
15 access to the internet and with access to a computer is able
16 to download the software.

17 The network itself is primarily used for users to share
18 files, but they can also do things such as chat on message
19 boards and visit sites within the network. So, as I said,
20 users can share files on this network, which include
21 uploading and downloading files to and from the network.

22 So when a user installs Freenet on their machine, they
23 run the software and Freenet connects to other machines
24 running Freenet which are obviously also connected to the
25 internet. Those connections are called peers.

1 So when a user decides to upload a file, Freenet, the
2 software, assigns a key to that file and the key is just a
3 long alphanumeric code that is really a file like in a file,
4 in a sense.

5 So when a user wants to download a file, they need that
6 specific key. So if a user is unable to search for a file
7 name or file type, they need that specific key for a
8 specific file they are interested in.

9 Q And let me stop you right there --

10 A Yes.

11 Q -- just because the Court has heard testimony on this.
12 But it's your understanding then that that key is sent out
13 to Freenet and it's requested of peers, and if those peers
14 don't have it, it's friend requested?

15 A That's correct. Yes, ma'am.

16 Q Okay. And I apologize for cutting you off.

17 A No, no problem.

18 Q I didn't want to replot old ground.

19 And did your training on Freenet specifically help in
20 determining how to identify who is requesting CSAM versus
21 who is merely relaying a request to CSAM?

22 A Yes, ma'am.

23 Q You testified about this lead, but did you rely solely
24 on that lead in your investigation?

25 A No, ma'am.

1 Q What did you do?

2 A So I collected the lead information from the law
3 enforcement database and then, based on my training, we
4 learned a procedure to validate that that information was,
5 in fact, suspected to be a requester or originator of CSAM
6 files.

7 Q So let's start with, how were you able to determine
8 first that this particular IP address in Monroe was, in
9 fact, requesting CSAM?

10 A How did I first determine?

11 Q Yes. How did you determine that the file itself was,
12 in fact, CSAM?

13 A Okay. I'm sorry. Okay. I understand. So what I did,
14 as part of that lead, I received the specific key to the
15 specific file that the IP address was requesting. So those
16 files were suspected to be CSAM at the time, but, of course,
17 I validated and confirmed that. So what I did is I inputted
18 the key into Freenet, downloaded the specific file related
19 to that key, viewed the file and confirmed that those files
20 met the statutory definition of child pornography.

21 Q And then, you spoke to this a moment ago, but how did
22 you then determine that particular IP address was the
23 original requester of the download versus an individual
24 relaying a request for the download?

25 A Yes. So during my training we were provided a

1 procedure to follow to validate and confirm that that IP
2 address was, in fact, a requester. Specifically that
3 procedure involved a spreadsheet with a mathematical
4 equation or algorithm embedded into that spreadsheet. So I
5 inputted various amounts of data that I obtained from the
6 lead into the spreadsheet to ensure that it passed the
7 algorithm.

8 Q And this algorithm, who was it created by?

9 A In part or in whole by Professor Levine.

10 Q What information would you put into this algorithm to
11 run the test?

12 A Lots of data goes into the algorithm, into the
13 spreadsheet, and then into the algorithm. But important
14 pieces are IP address, date and time, the number of peers,
15 and the number of requested blocks from an IP address.

16 Q Is this information available to all users of Freenet?

17 A Yes. If the correct settings are set.

18 Q Is there a certain amount of times that you run this
19 algorithm?

20 A Yes. In this specific investigation, I ran it three
21 times which related to three specific incidents where the
22 IP address requested specific CSAM files.

23 Q And by running the algorithm that number of times did
24 you reach a result?

25 A Yes, I did.

1 Q And what was your result?

2 A I validated that the IP address in question was an
3 originator or requester of those CSAM files.

4 Q I might ask you a difficult question. Do you remember
5 the IP address off the top of your head?

6 A I do not. I believe it began with "98 dot," but I'm
7 not sure of the rest.

8 Q Okay. Did part of your investigation include
9 identifying the service provider for the IP address?

10 A Yes, ma'am.

11 Q Which company was the service provider?

12 A Comcast.

13 Q Once you identified Comcast as the search provider, did
14 you issue an administrative subpoena?

15 A Yes, ma'am.

16 Q And specifically what were you looking for?

17 A Basic subscriber information which included customer
18 name and address.

19 MS. CASSIDY: Mr. Goodwin, if you could pull up
20 Government Exhibit 4. And if you would scroll to page 2.

21 Q (BY MS. CASSIDY) Agent Scullin, do you recognize this?

22 A I do, yes.

23 Q What is this?

24 A This is the administrative subpoena I served to
25 Comcast.

1 MS. CASSIDY: Mr. Goodwin, if you would go to
2 page 3 and page 4. And now page 5. I apologize.

3 Perfect. Thank you.

4 Q (BY MS. CASSIDY) Agent Scullin, is this the IP address
5 associated with the CSAM material?

6 A Yes, ma'am.

7 Q You list a series of dates and times on the subpoena.
8 What are those signifying?

9 A Those are the specific dates and times that I
10 originally received the lead of the IP address in question
11 requesting blocks related to suspected CSAM files.

12 Q So, in layman's terms, these are the dates and times
13 that the IP address was downloading child pornography?

14 A Correct. In the general sense, yes.

15 Q Thank you.

16 MS. CASSIDY: Your Honor, at this time the
17 government would move into evidence Government Exhibit 4.

18 MR. SALOMON: No objection.

19 THE COURT: Exhibit 4 is received into evidence
20 without objection.

21 MS. CASSIDY: Mr. Goodwin, I'm sorry, would you go
22 back to page 1.

23 Q (BY MS. CASSIDY) Agent Scullin, based upon the date,
24 when was the fax sent to Comcast?

25 A September 2nd, 2021.

1 Q And your investigation you said started in August of
2 2021?

3 A Yes, ma'am.

4 Q So within that time you had identified the CSAM
5 material and run your algorithm?

6 A Yes, ma'am.

7 Q Based upon the results provided by Comcast, to what
8 address and individual was the IP address subscribed?

9 A Mr. Robert Brown at 3012 Deborah Drive in Monroe,
10 Louisiana.

11 Q Once you got the information of this location as the
12 individual, did you immediately go do a search warrant?

13 A No, ma'am.

14 Q Why not?

15 A So I generally will conduct further investigative
16 activity to ensure that the residents still live at that
17 address and also conduct basic law enforcement checks to
18 include criminal histories, social media, and open source
19 information, to get an idea of who else may live at the
20 residence.

21 Q What did you learn about Robert Brown at 3012
22 Deborah Drive?

23 A Robert Brown, Junior, or Senior?

24 Q Senior. I apologize.

25 A No problem. I learned that he did, in fact -- it

1 appeared that he still lived at the residence.

2 Q Did you learn about any other individuals living at the
3 residence?

4 A Yes. Ms. Katherine Brown and Mr. Robert Scott Brown,
5 Jr.

6 Q And you testified that you did other investigative
7 measures like criminal history checks. Did you conduct
8 surveillance of the residence?

9 A I did. I conducted physical surveillance.

10 Q Did you also do a social media search for these
11 individuals?

12 A Yes, ma'am.

13 Q Did you check their employment status?

14 A Yes, ma'am.

15 Q And where did you learn that Robert Scott Brown, Jr.
16 was employed?

17 A He was employed by the Ouachita Parish School Board as
18 an IT professional.

19 Q While you were investigating -- I'll just say the
20 Brown family -- in this particular residence, did you
21 receive any more leads from the law enforcement database
22 concerning this IP address?

23 A I did. I continuously received leads as the
24 investigation progressed regarding the IP address in
25 question continuously requesting blocks of suspected CSAM.

1 Q When was the last time that this IP address was
2 associated with CSAM in a law enforcement lead?

3 A It was December 2nd of 2021.

4 Q As you're conducting your investigation, are you
5 speaking with other agents and law enforcement officials
6 about what you're uncovering?

7 A Yes, ma'am.

8 Q Who were some of them individuals you spoke with over
9 that period of time?

10 A One individual was Investigator James Humphrey.

11 Q And who was he in relation to this investigation?

12 A So he was a task force officer assigned full time to
13 the FBI office in Monroe, but his parent agency was with the
14 Ouachita Parish Sheriff's Office.

15 Q And what were some things that you would have discussed
16 with Investigator Humphrey?

17 A In this case, it was the facts and circumstances of the
18 investigation to date, which included the background of what
19 Freenet is and how it works in the general sense and how my
20 investigation led to the house on Deborah Drive.

21 Q On January 28 of 2022, did you obtain a federal search
22 warrant for the Deborah Drive residence?

23 A I'm sorry. I missed that date, ma'am.

24 Q January 28th, 2022?

25 A Yes, ma'am.

1 MS. CASSIDY: And, Mr. Goodwin, if you would just
2 pull up Government Exhibit 5.

3 Q (BY MS. CASSIDY) Agent Scullin, does this appear to be
4 the search warrant that you obtained?

5 A Yes, ma'am.

6 MS. CASSIDY: Your Honor, the government would
7 move into evidence at this time Government Exhibit 5.

8 THE COURT: Any objection, Mr. Salomon?

9 MR. SALOMON: I'm sorry. I couldn't hear you.

10 THE COURT: No objection, I assume?

11 MR. SALOMON: No.

12 THE COURT: Okay.

13 MR. SALOMON: I'm sorry.

14 THE COURT: That exhibit is also received into
15 evidence.

16 MS. CASSIDY: Thank you, Your Honor.

17 Q (BY MS. CASSIDY) What date did you execute the search
18 warrant?

19 A February 1st of -- I'm getting my years mixed up. It
20 would have been 2022.

21 Q Did you have other law enforcement officials aid you in
22 the execution of the search warrant?

23 A I did, yes, ma'am.

24 Q Was Investigator Humphrey one of those individuals?

25 A He was, yes.

1 Q At the time you executed the warrant at the Deborah
2 Drive residence was anyone present?

3 A Yes.

4 Q Who was that?

5 A It was Mr. Robert Scott Brown, Sr., and Mrs. Katherine
6 Brown.

7 Q Did you conduct interviews of them?

8 A I did, yes, ma'am.

9 Q And I want to get to specifics of their interviews in
10 just a moment, but did law enforcement officials conduct an
11 on-site -- let me back up and lay a foundation. During the
12 search, did law enforcement find electronic devices inside
13 that home?

14 A Yes, we did, ma'am.

15 Q Did agents do an on-site forensic search of those
16 devices?

17 A We did. We did what's called basically a forensic
18 preview, in a sense. It's not a full forensic examination,
19 but gives us an idea of what type of files are on the
20 specific devices.

21 Q Based upon that preview, was there any CSAM on those
22 devices?

23 A There was not.

24 Q And when you interviewed Robert Brown, Sr., and
25 Katherine Brown, what did they tell you that was relevant to

1 your investigation?

2 A I learned that their son, Mr. Robert Scott Brown, Jr.,
3 had lived at the residence for several years, but had
4 recently moved out in the rough time frame of the end of
5 December.

6 Q Was the timing of his move from the residence
7 significant to your investigation?

8 A Yes.

9 Q In what way?

10 A So after December 2nd of 2021 I received no further
11 leads identifying the IP address at 3012 Deborah Drive of
12 attempting to download suspected CSAM files.

13 Q Was this information, specifically the timing of the
14 last CSAM, made known to the other officials who were
15 assisting in the search warrant?

16 A Yes, ma'am.

17 Q Particularly Investigator Humphrey?

18 A Yes, ma'am.

19 Q Did you have an opportunity to interview Robert Scott
20 Brown, Jr.?

21 A I did, yes, ma'am.

22 Q Do you see him in the courtroom today?

23 A Yes, ma'am.

24 Q Can you identify him for the record?

25 A Yes. He is sitting at the defense counsel's table

1 behind his attorney.

2 MS. CASSIDY: Your Honor, would the record reflect
3 that the witness has identified the defendant in open court?

4 THE COURT: The record will reflect that.

5 MS. CASSIDY: Thank you.

6 Q (BY MS. CASSIDY) who else was present during your
7 interview of the defendant?

8 A There was another FBI agent, Special Agent Raquel
9 Mobley. So really the interview was kind of broken up into
10 two phases. The first phase was myself and Special Agent
11 Raquel Mobley, and then the second phase was myself,
12 Agent Mobley, and then Investigator Humphrey.

13 Q Was the interview recorded?

14 A It was, yes.

15 Q During the interview process, I would say at the
16 beginning, did you advise the defendant of his Miranda
17 rights?

18 A I did, yes, ma'am.

19 Q Did the defendant tell you anything significant to your
20 investigation?

21 A Yes. He admitted to viewing pornography on a near
22 daily basis specifically in the genres of old, young, and
23 incest. He told me that he had no idea what Freenet was and
24 he was not familiar with it, but he also confirmed that he
25 moved out the end of December of 2021.

1 Q Did law enforcement that same day obtain a search
2 warrant for the defendant's new residence?

3 A Yes. We obtained a state search warrant.

4 Q Where was Mr. Robert Brown, Senior -- sorry -- Junior
5 living at that time?

6 A He was living approximately a mile or so down the road
7 at an apartment complex at 3100 Deborah Drive, apartment 61.

8 Q And which law enforcement official obtained the state
9 search warrant?

10 A Investigator James Humphrey.

11 Q You previously testified that you spoke with
12 Investigator Humphrey about this investigation?

13 A Yes, ma'am.

14 Q And he was present during the interview of the
15 defendant?

16 A Yes, ma'am.

17 Q Was the search warrant executed that same day?

18 A It was. As soon as we concluded the execution of the
19 federal warrant at 3012 Deborah Drive.

20 Q During the search of the defendant's apartment did
21 officials find anything of significance?

22 A We did. In Mr. Brown, Jr.'s bedroom, he had a computer
23 that was on and running Freenet.

24 Q Did you also locate some hard drives?

25 A I did, yes, ma'am.

1 Q Was a search of those hard drives later conducted?

2 A Yes. Off-site.

3 Q Was anything of significance located?

4 A Yes. We found hundreds, if not thousands, of items of
5 suspected child sexual abuse material, which included both
6 videos and images.

7 Q Were they in any particular file on the hard drive?

8 A Yes. One particular file of interest to me was the
9 same file that Mr. Brown had requested back my original
10 lead, so that indicated that suspected file was successfully
11 downloaded onto Mr. Brown's machine.

12 Q And were any of these files saved in a folder of
13 notable -- the name of which was notable to you?

14 A Yes. They were saved in the default location which was
15 the Freenet downloads folder.

16 Q And my last question to you, Agent Scullin: Prior to
17 the search warrant of the Deborah Drive residence, did you
18 ever conduct a search of the defendant's hard drive?

19 A No, ma'am.

20 Q The information you obtained, fair to say it was just
21 relayed to you as a user of Freenet?

22 A Yes, ma'am.

23 Q Thank you.

24 MS. CASSIDY: I'll tender, Your Honor.

25 THE COURT: Mr. Salomon.

1 MR. SALOMON: Thank you.

2 CROSS-EXAMINATION

3 BY MR. SALOMON:

4 Q Agent Scullin, I'm Val Salomon. I represent Mr. Brown.
5 I have a few questions.

6 First of all, you mentioned some surveillance. When
7 did that occur?

8 A The physical surveillance was -- I don't remember the
9 specific date, but it was -- it was around the time or just
10 prior to the execution of the federal warrant.

11 Q Yet you weren't aware that Mr. Brown wasn't living at
12 that address on Deborah Drive?

13 A From the physical surveillance, we were unable to
14 determine that.

15 Q Now, you mentioned that the last CSAM was when?

16 A December 2nd, 2021.

17 Q And that was from an IP address located at what?
18 3012 Deborah Drive?

19 A That's correct, yes, sir.

20 Q Now, the search warrant that you mentioned where you
21 found the younger Mr. Brown, the computers and these
22 materials, was that at 3012 Deborah Drive?

23 A No. That was on the fall on second search warrant
24 executed on Mr. Brown, Jr.'s residence at 3100 Deborah
25 Drive.

1 Q Apartment 61?

2 A Yes, sir.

3 Q Okay. And I notice that the materials that I received
4 from the government that you had a rather -- rather lengthy
5 search warrant that you compiled and submitted to the
6 federal magistrate for review and signature that dealt with
7 the 3012 Deborah Drive.

8 A Correct, yes, sir.

9 Q Do you remember about how many pages that item was?

10 A My actual affidavit?

11 Q Yeah.

12 A I don't remember how many.

13 Q It was lengthy though?

14 A It was lengthy, yes, sir.

15 Q And detailed?

16 A Yes.

17 Q Okay. Did you -- did you compile a similar warrant for
18 the apartment, the 3100 Deborah Drive?

19 A I did not, no.

20 Q Did you compile the warrant that was ultimately
21 utilized to search that particular apartment?

22 A When you say "compiled," do you mean --

23 Q Did you --

24 A -- drafted?

25 Q -- do the affidavit?

1 A No. I was not the affiant.

2 Q It's my understanding from your testimony then that
3 apparently Deputy Humphrey is the person that compiled that
4 affidavit for the second warrant?

5 A Yes, sir.

6 Q And the first warrant that you compiled and that was
7 executed on 3012 Deborah Drive turned up zero; is that
8 correct?

9 A Correct. We found no evidence of child sexual abuse
10 material at that residence.

11 Q Thank you.

12 MR. SALOMON: I think that's all I have.

13 MS. CASSIDY: Brief redirect, Your Honor?

14 THE COURT: Okay.

15 MS. CASSIDY: Thank you.

16 REDIRECT EXAMINATION

17 BY MS. CASSIDY:

18 Q Agent Scullin, I have in front of me Government
19 Exhibit 5 which is your affidavit and your search warrant.

20 MS. CASSIDY: May I approach, Your Honor?

21 THE COURT: Yes.

22 THE WITNESS: Thank you, ma'am.

23 MS. CASSIDY: Thank you.

24 Q (BY MS. CASSIDY) Agent Scullin, would you just look
25 through that momentarily and just familiarize yourself with

1 the information that you put in the affidavit?

2 A Absolutely.

3 Q As you go through that, is it fair to say that a lot of
4 your affidavit is explaining how law enforcement came to
5 identify this IP address as a Freenet user?

6 A Yes, ma'am.

7 MS. CASSIDY: Nothing further, Your Honor.

8 Thank you.

9 THE COURT: Okay. Thank you.

10 (Off the record.)

11 THE COURT: In case you want to recall him, you're
12 going to ask him to step out?

13 MS. CASSIDY: Yes.

14 THE COURT: I wanted to make sure we had that on
15 the record.

16 MS. CASSIDY: Yes.

17 THE COURT: I know you guys talked about it,
18 but --

19 MS. CASSIDY: Yes. The defense counsel has made
20 me think I might.

21 THE COURT: Just in case.

22 MS. CASSIDY: Thank you.

23 And, lastly, Your Honor, the government would call
24 investigator James Humphrey.

25 THE COURT: Okay.

1 (witness sworn.)

2 SERGEANT JAMES HUMPHREY,

3 having been first duly sworn to testify the truth, the whole
4 truth, and nothing but the truth, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. CASSIDY:

7 Q Good morning.

8 A Good morning.

9 Q would you state and spell your name for the record?

10 A James Humphrey. It's J-A-M-E-S. Humphrey,
11 H-U-M-P-H-R-E-Y.

12 Q How are you employed as evidenced by your uniform?

13 A The Ouachita Parish Sheriff's Office.

14 Q How long have you been with the sheriff's office?

15 A Twenty-two years.

16 Q Are you assigned to any particular division currently?

17 A I recently took a promotion to a sergeant in the patrol
18 division.

19 Q Prior to patrol, were you assigned to another division?

20 A Yes. I was in investigations division.

21 Q were you also a task force officer for a federal
22 agency?

23 A Yes, ma'am. For almost nine years.

24 Q what agency was that?

25 A The FBI. The Federal Bureau of Investigation.

1 Q Thank you. As a task force officer as well as working
2 in investigations, what were some of your duties and
3 responsibilities?

4 A During that time, it was investigating all child
5 sexual exploitation cases, online exploitation cases,
6 child pornography investigations.

7 Q In addition to your nine years of on-the-job
8 experience, did you attend any courses or training with
9 regard to the investigation of internet crimes against
10 children?

11 A Yes, ma'am.

12 Q Giving a ballpark number, how many classes do you think
13 you attended?

14 A Oh, dozens. I couldn't tell you exact, because I was
15 also a member of the Louisiana Attorney General's Task
16 Force when they provided training as well. So I was getting
17 training from the AG's Office and from the FBI.

18 Q I'd like to direct your attention to February 1st of
19 2022. Were you working with the task force at that time?

20 A Yes, ma'am.

21 Q Specifically the federal task force?

22 A Yes, ma'am. I'm sorry.

23 Q Did you assist in the execution of a federal search
24 warrant at 3012 Deborah Drive in Monroe?

25 A I did.

1 Q What agency obtained the search warrant?

2 A The Federal Bureau of Investigation.

3 Q Who was the case agent?

4 A Bill Scullin.

5 Q Did you speak with Agent Scullin about the
6 investigation as it was occurring?

7 A Yes, ma'am, I did.

8 Q Based upon those conversations, what did you understand
9 this investigation was about?

10 A Downloading CSAM, child sexual abuse material, via the
11 internet.

12 Q And do you know specifically what program was used at
13 the time to download these images?

14 A Yes, ma'am. It was Freenet.

15 Q Who was believed at that time to live at 3012
16 Deborah Drive?

17 A Robert Brown, Sr.; his wife, Katherine; and their son,
18 Robert Brown, Jr.

19 Q What was your role in the execution of the search
20 warrant?

21 A So when the agents went to the home to execute the
22 search warrant, I was tasked with finding where Robert
23 Brown, Jr., was located.

24 Q Did you find him?

25 A I did.

1 Q Where was he?

2 A He was employed by the school board in the IT
3 department, and he was filling a ticket at a local middle
4 school.

5 Q Did you go to the middle school?

6 A I did.

7 Q And you found him?

8 A Yes, ma'am.

9 Q At that point did he go with you back to the residence?

10 A He did.

11 Q Did you place him under arrest?

12 A No, ma'am.

13 Q Did you force him to go back to the residence?

14 A No, ma'am.

15 Q And I didn't ask you this earlier, but with regard to
16 your conversations with Agent Scullin, what was your
17 understanding of when these CSAM images had been downloaded?

18 A In the fall of 2022.

19 THE COURT: 2022 or 2021?

20 THE WITNESS: I'm sorry. 2021.

21 Q (BY MS. CASSIDY) Once you arrived at the residence,
22 did you learn if agents had conducted any type of on-site
23 forensic review of the digital devices at the Deborah Drive
24 residence?

25 A Yes, ma'am.

1 Q Was any CSAM material located on the devices?

2 A No, there was not.

3 Q Are you aware if Robert and Katherine Brown were
4 present at the home?

5 A Yes, ma'am.

6 Q Is it your understanding that they were interviewed?

7 A I think they were interviewed. I was not there for
8 that portion of it.

9 Q Did you learn what Robert and Katherine Brown told
10 agents during their interviews?

11 A That their son had moved out recently. He was living
12 in an apartment nearby.

13 Q Did you participate in an interview of the defendant?

14 A Portions of it, yes, ma'am.

15 Q And I say the "defendant," do you recognize Robert
16 Scott Brown, Junior --

17 A I do.

18 Q -- in the courtroom today?

19 A I do.

20 Q What information was learned from the defendant during
21 that interview?

22 A He denied that he downloaded CSAM or child sexual abuse
23 material and admitted to downloading -- I mean viewing other
24 types of pornography on a daily basis and that he had
25 recently moved out.

1 Q Was there anything significant about the timing of the
2 defendant's move from the residence and the CSAM material?

3 A Yes, ma'am. Beyond the date -- when he moved out,
4 there were no more images viewed, being downloaded, from
5 that residence on Deborah Drive.

6 Q And it was your understanding that he moved out
7 approximately when?

8 A In December.

9 Q After interviewing the defendant, what did you do next?

10 A We secured a search warrant for his apartment and that
11 was executed as well.

12 Q The search warrant that was obtained, were you the
13 affiant?

14 A I was.

15 Q Where were you when you wrote out that search warrant?

16 A I was sitting in my vehicle in my truck on the laptop
17 that afternoon.

18 Q Was there any type of urgency to obtain this warrant?

19 A Yes, ma'am.

20 Q Why?

21 A For fear of destruction of the evidence. That's the
22 main reason.

23 Q You recently testified the defendant was not under
24 arrest?

25 A Correct.

1 Q Investigator Humphrey, do you recognize -- I'm sorry,
2 now Sergeant Humphrey -- do you recognize this document?

3 A Yes, ma'am.

4 Q What is it?

5 A It's my oath in support of search warrant.

6 MS. CASSIDY: Your Honor, at this time the
7 government would move into evidence Government Exhibit 6.

8 MR. SALOMON: No objection, Your Honor.

9 THE COURT: Exhibit 6 is received into evidence.

10 MS. CASSIDY: Mr. Goodwin, if you would scroll
11 down so that the probable cause section is available.

12 Thank you. Just right here.

13 Q (BY MS. CASSIDY) Agent Humphrey, I want to specifically
14 note the section that I've just bracketed in red. Would you
15 just read that into the record, please?

16 A "The investigation and probable cause revolved around
17 person(s) at the residence who were viewing images related
18 to CSAM (child sexual abuse material) over the course of the
19 last few months of 2021."

20 Q And would you expound upon that, based upon your
21 earlier testimony? When we're talking about the last few
22 months of 2021, what was your understanding of when these
23 CSAMs were viewed?

24 MR. SALOMON: Judge, I object. I believe that we
25 should be within the four corners of the affidavit.

1 THE COURT: Let me get you to do this, first of
2 all.

3 MS. CASSIDY: Oh, sorry.

4 THE COURT: Step up --

5 MR. SALOMON: I'm sorry, Judge.

6 THE COURT: -- the microphone.

7 MR. SALOMON: My objection is that we should be
8 bound by the four corners of the affidavit. Not extraneous
9 material that he may have learned before, after, or the
10 weeks past.

11 MS. CASSIDY: Your Honor, I believe he has
12 testified to information that he learned this before
13 otherwise he couldn't have made it in the affidavit, but
14 also with the good faith exception, we look outside the
15 affidavit.

16 THE COURT: I understand the legal argument,
17 Mr. Salomon, and I certainly will apply the law, but I do
18 want to hear the information as it relates to the good faith
19 exception, so the objection --

20 MR. SALOMON: Note my objection.

21 THE COURT: I am going to note your objection for
22 the record.

23 MS. CASSIDY: Thank you, Your Honor.

24 THE COURT: You may proceed.

25 Q (BY MS. CASSIDY) And, Sergeant Humphrey, I apologize,

1 if you would just speak a little bit to the course of the
2 last few months of 2021.

3 A So in -- I want to say it was in November, I was aware
4 that there was a target in the Monroe area. I did not have
5 a lot of involvement in any of the investigation of that
6 target, but that, hey, there is going to be a search
7 warrant, you know. We got an investigation open. It's in
8 Monroe. And we're going to be -- we're going to be working
9 it. It's assigned to Agent Scullin, who was in the
10 Shreveport office, and to kind of be aware, it's coming.
11 And, like I said, that was in October, November.

12 Q And as it relates to October, November, did you and
13 Agent Scullin specifically discuss when these images were
14 being downloaded?

15 A Not the specific dates. Just the times.

16 Q And, I'm sorry, when we're talking about -- I don't
17 mean to pin you to a date, but just general parts of the
18 year.

19 A Yes.

20 Q And what was that?

21 A The fall of 2021.

22 Q And then the last part that I bracketed in your
23 affidavit, it says no evidence that criminal activity was
24 found at 3012 Deborah Drive where just the mother and father
25 reside and evidence also shows that there was no additional

1 CSAM activity beyond the date Robert Junior moved from the
2 residence. How did you know that there had been no
3 additional CSAM recovered or downloaded?

4 A Agent Scullin checked.

5 Q Thank you.

6 MS. CASSIDY: I'll tender, Your Honor.

7 THE COURT: Mr. Salomon.

8 MR. SALOMON: I'm sorry. Is the -- without
9 scrolling, is the warrant itself, the search warrant itself
10 in here --

11 MS. CASSIDY: Yes.

12 MR. SALOMON: -- or just the other one?

13 MS. CASSIDY: It's here, but if you want the
14 (inaudible).

15 MR. SALOMON: No, no. I got a copy of it. I'm
16 just making sure, so --

17 CROSS-EXAMINATION

18 BY MR. SALOMON:

19 Q Sergeant Humphrey, if I can back up. It's my
20 understanding you were not there for the interview with
21 Robert Senior and his wife Katherine?

22 A Correct.

23 Q You mentioned some information that you had and a
24 number of -- you know, much information that you perhaps had
25 learned as part of the investigation from the FBI.

1 A Yes, sir.

2 Q But in looking at the oath, it's not included in the
3 oath, is it?

4 A So it's included in the oath about we were there to
5 execute a search warrant that had been obtained by the FBI
6 and it was registered to persons at that residence --

7 Q But any of the --
8 (Simultaneous crosstalk.)

9 A -- CSAM.

10 Q But any of the information regarding with the
11 investigation, in the course of the investigation, it's not
12 within the four corners of your affidavit, is it?

13 A Yes, sir, it is.

14 Q Oh, it is. Okay. Well, I have another question,
15 though, while I'm thinking about it.

16 MR. SALOMON: Can we pull up the actual search
17 warrant for the property? That's fine. You can stop right
18 there.

19 Q (BY MR. SALOMON) Can you see that? Where it says
20 "you are hereby ordered"?

21 A Yes.

22 Q Why did you want to search 304 Medorah Drive?

23 A That appears to be an error on my part.

24 Q Okay. Was this some sort of standard language that you
25 appropriated from some other warrant and stuck it in there

1 and that's where that came from?

2 A No. Some of the information from what we were looking
3 for is -- would be deemed boilerplate, but the probable
4 cause is not.

5 Q Okay. But --

6 A And just above it in the -- in the dark, where it says
7 the specific address, no, it was an oversight.

8 Q And going back to your affidavit itself, in support of
9 the search warrant, there are a number of pages talking
10 about your past investigations and what you're -- you know,
11 and things you would expect to find, those were all
12 boilerplate also?

13 A Are you talking about my -- I guess, just clarify the
14 question. You're talking about my previous experiences?

15 Q No, no. I'm talking about the information within your
16 oath in support of the search warrant, there are some --
17 you know, several pages dealing with past investigation and
18 past -- past knowledge why you would expect to find certain
19 things based upon your experience, but that's boilerplate
20 language, too, also, correct?

21 A As far as my past experience, I'd have to speak to
22 that of --

23 MR. SALOMON: Let's go back to the oath in support
24 of the search warrant. If we can scroll back to that,
25 please. Okay. Now, if we can scroll up a little bit,

1 please.

2 MS. CASSIDY: Oh, we'll have to do it.

3 MR. SALOMON: Yeah, scroll up a little bit,
4 please. Let's -- so I can see the probable cause part.

5 Q (BY MR. SALOMON) I noticed right here we have, you
6 know, what appears to be information concerning this
7 particular search, and then after "Your affiant knows..."
8 computer hardware, software and data...instrumentalities,"
9 that's all boilerplate, though, isn't it? That's not
10 something you compose just for this instance, is it?

11 A where are you talking about?

12 Q The paragraph, again, in your --

13 A "Your affiant knows that" --

14 Q Yeah.

15 A -- "computer hardware, software and data"?

16 Q Yeah. Right there.

17 A Yeah, it is all accurate information.

18 Q I understand that. I asked you if it's boilerplate.

19 A Yes.

20 Q Okay. And as are the following paragraphs?

21 A we'd have to scroll through.

22 Q well, go ahead --

23 A Some of them --

24 Q -- and scroll through it.

25 A Some of them are on --

1 Q We got plenty of time.

2 A Some of those are specific to that address.

3 Q Well, is there something that you added beyond this
4 that wasn't boilerplate?

5 A On this section?

6 Q Yes, sir.

7 A I'd have to read through it.

8 Q Take your time.

9 MS. CASSIDY: Mr. Salomon, give him a hard copy.
10 (Off the record.)

11 MR. SALOMON: We're going to give him a hard copy.

12 MS. CASSIDY: Is that all right, Your Honor?

13 May I approach?

14 THE COURT: Yes. My understanding is Ms. Cassidy
15 is going to approach and provide a hard copy of that search
16 warrant to the witness.

17 THE WITNESS: So on page 2, where it's numbered
18 1 and 2, "A search warrant return will be filed," that's the
19 specific address of where we are -- what we're searching.

20 Q (BY MR. SALOMON) I'm sorry? I couldn't understand.

21 A Page 2 about three-quarters of the way down --

22 Q Yeah. You're talking about some address and --

23 A Correct.

24 Q -- that the other --

25 A That's the difference.

1 Q -- warrant turned up nothing.

2 A It's speaking strictly to the oath. That's it.

3 Q So everything else is boilerplate?

4 A Yes.

5 Q And this -- was there some other oath in support or is
6 this the sole oath that -- information that you presented to
7 the magistrate, the judge?

8 A That is the oath.

9 MR. SALOMON: Thank you.

10 MS. CASSIDY: May I redirect, Your Honor?

11 THE COURT: Yes.

12 REDIRECT EXAMINATION

13 BY MS. CASSIDY:

14 Q Investigator Humphrey, defense counsel, if you'll
15 recall, was asking you about information in your affidavit
16 that was boilerplate in your oath.

17 A Yes, ma'am.

18 Q How long did you say you have been working in internet
19 crimes against children?

20 A Nine years.

21 Q As part of your experience, have you come to learn that
22 certain crimes might always be used by certain devices?

23 A Yes, ma'am.

24 Q Can you elaborate a little bit about that as it relates
25 to internet crimes against children?

1 A So persons specifically download, view, and share child
2 pornography. I am used to using the term "child
3 pornography." CSAM is a newer term in these investigations.
4 So I apologize that I -- I usually say "child pornography."
5 But child pornography persons, when they -- to say that
6 they're all the same would be incorrect. To say they're all
7 different is incorrect. They all possess and hold these
8 items near and dear to them because that is their collection
9 of child pornography. And so if you -- but they're all
10 using electronic equipment. Some may use a dial-up mode.
11 Some may use high-speed internet. Some may use a hard drive
12 to store it. Some may use their phone to store it. So in
13 order -- when we do these investigations, you may not know
14 which ones are which, so you want to make sure that you are
15 covered on what you're searching. You're searching for all
16 electronics and that's why.

17 Q And so you know that these crimes are being committed
18 with electronic devices?

19 A Yes, ma'am.

20 Q So is it fair to say that your search is to look for
21 all electronic devices?

22 A Yes, ma'am.

23 Q And is that going to be the case in -- I don't want to
24 say "all," but most of your crimes that you're investigating
25 involving internet crimes against children?

1 A Say that again. I'm sorry.

2 Q Is that going to be the case in most of your
3 investigations for internet crimes?

4 A Yes, ma'am. When I first started, we were -- most
5 everybody that we dealt with had a tower lap -- tower
6 computer on a desk. We started moving into laptops. And
7 then there towards the end, they may use cell phones. But,
8 like I said, not all are the same, but there are very few
9 differences in them as well.

10 Q So when defense counsel asked you if this information
11 was boilerplate, is it better to say that this information
12 is standard?

13 A Yes, ma'am.

14 Q Thank you.

15 MS. CASSIDY: Thank you, Your Honor.

16 THE COURT: May the witness step down?

17 MS. CASSIDY: Yes, Your Honor. I apologize.

18 THE COURT: Thank you. And is that the last
19 witness for the government?

20 MS. CASSIDY: Yes, Your Honor.

21 THE COURT: Okay. And does the defendant -- do
22 you guys have any witnesses?

23 MR. SALOMON: No, ma'am.

24 THE COURT: Okay. Then it seems to me we can move
25 to argument.

1 MR. SALOMON: Thank you. Your Honor, I had a
2 three-part argument. One I may dispense with that deals
3 with my understanding of how the agency acquired the CSAM
4 information from the warrant -- for the bare bones of the
5 warrant was unclear of how it was developed. Did not -- he
6 was not aware one way or the other from again the warrant,
7 whether it was downloaded or something from Google or some
8 internet provider that alerted the -- alerted the NC, the
9 national comprehensive, you know, warehousing of the stuff,
10 who, in turn, notifies the police, and that warehousing
11 having been a government agency. But that was not the case
12 here. In this instance, it was a software program that
13 simply alerts them whenever -- whenever on this public sites
14 it runs, so that part, apparently, I will abandon.

15 THE COURT: Okay. So I want to make sure that
16 we're on the same page, Mr. Salomon. You're abandoning the
17 argument about the review of the Freenet data being an
18 unreasonable search and seizure?

19 MR. SALOMON: Yes.

20 THE COURT: Okay.

21 MR. SALOMON: Yes. Since it's accessed publicly,
22 simply via software, that there is nothing unusual about it
23 that you and I can access.

24 THE COURT: Okay. So we're --

25 MR. SALOMON: So when I'm doing with --

1 THE COURT: So that I understand your argument on
2 the bare bones of the --

3 MR. SALOMON: Bare bones, yeah.

4 THE COURT: -- affidavit and the -- are you still
5 proceeding on the staleness?

6 MR. SALOMON: Yes.

7 THE COURT: Okay.

8 MR. SALOMON: Yes. It's part and parcel.

9 We have one, sort of, long run-on paragraph here
10 detailing the probable cause specific to this particular
11 incident in this particular -- and it recites there was a
12 search at 3012 Deborah Drive which resulted in nothing.
13 There is a mention that over the course of the last three --
14 few months of 2021, there was some CSAM material that's
15 associated with that address, but there is nothing in here
16 indicating any CSAM evidence being associated with the
17 3100 Deborah Drive, apartment 61, address. There is nothing
18 in here about exactly who accessed this -- these materials
19 at 3012 Deborah Drive. There is no information contained
20 within here when or how it was accessed. There is no
21 information about -- of any particularity about when
22 Robert Junior moved and when that might have been in
23 relation to any materials that were found through this
24 algorithm. Of course, the algorithm itself is not mentioned
25 in any form or fashion. There is no information in here

1 about how this access to any CSAM information was acquired,
2 from whom, and why there is any connection to this
3 particular address and apartment other than Robert Brown
4 happening to live there, since there is nothing that
5 associates him with any misconduct whatsoever. He indicated
6 he watches porn. Well, I don't think that's exactly an
7 exclusive club in the United States, you know, since I
8 believe, you know, millions of people access it.

9 And there is nothing -- there is no admission of
10 anything untoward on his behalf or any misconduct. And, as
11 it says, there is no additional CSAM activity, you know, on
12 some -- some unspecified date, perhaps in December, perhaps
13 not.

14 As to the staleness argument, there is no specifics and
15 no particularity within the affidavit indicating when any --
16 you know, specifics as to when any of this activity
17 occurred. Obviously, it was all available. There is an
18 earlier warrant by Agent Scullin which was quite detailed
19 and -- but this was not supplied to the issuing judge
20 magistrate, this particular entrance -- incidence. It was
21 not incorporated in any form or fashion. And it was at all
22 times available. Hard to argue good faith when you have the
23 information and you don't supply it, when you ignore it,
24 intentionally, unintentionally, casually, or how it may have
25 come about.

1 And, of course, I'd also note that, for some reason,
2 we're searching a different address on Medorah Drive, once
3 again, utilizing boilerplate and I'm sure that's where that
4 came from. Thank you.

5 THE COURT: Ms. Cassidy.

6 MS. CASSIDY: Yes. Thank you, Your Honor.

7 I did want to briefly address a few of Mr. Salomon's
8 arguments. Obviously, the government disagrees this is
9 bare bones, but that's the point of having the defense and
10 the government.

11 THE COURT: And that's what I'll rule on.

12 MS. CASSIDY: But, Your Honor, Mr. Salomon notes
13 that Agent Scullin's search warrant was very detailed.
14 The difference is Agent Scullin had the benefit of time to
15 prepare that search warrant. Investigator and now Sergeant
16 Humphrey testified he prepared it in his truck on-site.
17 There was a sense of urgency, because we have a man who is
18 not under arrest, who had access to the home and who could
19 destroy evidence within the apartment. So I don't think
20 it's fair for the defense to suggest that, "well, Agent
21 Scullin's affidavit was more detailed. His should have
22 been, too."

23 But even beyond that, Mr. Salomon suggests that there
24 is no information -- and, hopefully, I wrote it down
25 correctly. I don't want to misquote him. But there is no

1 information about who or how the CSAM was viewed at 3012
2 Deborah Drive. Well, that's exactly the point. That was
3 the point of the search warrant. We don't know who inside
4 the home was viewing it. That's why we obtained the search
5 warrant, to go search the house, find the electronic
6 devices, hope to find some type of characteristics about
7 that device that would link us to the viewer of a time when
8 three people were living inside the home. So I would
9 completely agree with Mr. Salomon, that there is not that
10 information here, because we don't know it, at the time.

11 what we do know, what is included in this affidavit,
12 is we know that Robert Brown, Jr., was originally living at
13 this home. And we know that over the last few months of
14 2021, there had been CSAM material being downloaded to this
15 home.

16 we also know that Mr. Brown moved from the home, and
17 after that, based upon this warrant, the CSAM stopped. I
18 think this is more than sufficient to say there is a link
19 here between Mr. Brown exiting the home and the CSAM
20 material stopping.

21 This affidavit, the oath, identifies the search
22 warrant, as does the warrant itself. There is a reference
23 to a Medorah Drive address, but agents didn't search
24 Medorah Drive. They searched 3100 Deborah Drive,
25 apartment 61. And I did want to make one other argument,

1 Your Honor. I just have to remember what it was.

2 THE COURT: Did you want to address staleness?

3 MS. CASSIDY: Oh, Your Honor, I apologize. I did
4 want to address just very briefly, on the staleness issue.
5 I cited this in my brief, but the Fifth Circuit held about a
6 six-month delay between the discovery of child pornography
7 and the application of a search warrant doesn't render the
8 warrant stale, and the government argues that's particularly
9 because of technology. Technology, as Sergeant Humphrey
10 described, these devices are meant to maintain it. And it's
11 not unreasonable to believe that when Robert Brown, Jr.,
12 left the home, that he would have taken his devices with him
13 to his new location. And the nature of these types of
14 crimes involve retaining child pornography, making a
15 collection. And so it was not unreasonable for these agents
16 and it was not unreasonable, according to the Fifth Circuit,
17 to have a search warrant that's executed after the last few
18 months that the CSAM was viewed.

19 Your Honor, I think that addresses everything. If
20 there is something else the Court would like us to speak on.

21 MR. SALOMON: I have a brief response, Your Honor,
22 if I might.

23 THE COURT: Okay.

24 MR. SALOMON: Looking, once again, at the four
25 corners of the affidavit, there is no indicia -- there is

1 nothing indicating that there was a computer in this
2 apartment at apartment number 61. There is no computer
3 activity that was noted by anyone that concerns this
4 apartment. What the warrant says is that they had a search
5 warrant that showed activity at the Deborah Drive address of
6 the parents, that they didn't find anything there, although
7 computers, and then it says, well, we've got a son who
8 watches porn. We're going to go search this other place.
9 It doesn't indicate that there are any computers, any
10 computer activity, any CSAM activity, since he moved, even
11 though they're not specific as to when he moved. I know the
12 government indicates that they were in a rush, but not in a
13 rush enough to ask any questions and providing information
14 in this particular instance. I don't think a rush makes it
15 good faith.

16 THE COURT: All right. Thank you both very much.
17 I appreciate all the testimony from the witnesses. I will
18 take the motion under advisement on the remaining two issues
19 and we will issue a report and recommendation shortly.
20 Thank you all very much. We are adjourned.

21 (Proceedings concluded at 2:59 p.m.)

22 CERTIFICATE

23 I hereby certify that the foregoing is a true and correct
24 transcript from the record of proceedings in the
25 above-entitled matter. /s/ Diana Cavenah
Official Court Reporter